

their duties, and for the working of county convicts upon the roads of said county, and providing for officers' fees and rewards for the capture of escaped convicts, and authorizing the working of county convicts partly upon the county convict farm as well as upon the public roads, or partly upon both, in the discretion of the commissioners court, and making provision of act applicable, as far as practicable, to convicts when worked on county farms, and to provide for the summoning of teams for road work, and for an allowance of time for the service of same, and fixing a penalty for a violation of this act, and repeal all laws in conflict with this act as to Nacogdoches county, and to authorize the commissioners court of Nacogdoches county to create the office of superintendent of public roads and bridges for Nacogdoches county and defining his duties, and providing for compensation of said superintendent, and prescribing bond to be given by said officer; providing that delinquent poll tax payers shall be subject to three days road duty; providing for the condemnation of any land needed for the widening, straightening, changing or draining of roads; providing for the taking of timber, gravel, earth, stone or other necessary material for the improvement of roads, and giving persons summoned to work on roads the right to be relieved from the discharge of such duty on the payment of specific sums of money herein stipulated."

The bill was read a second time, and

On motion of Senator Greer laid on the table subject to call.

The Chair laid before the Senate, on second reading,

House bill No. 204, A bill to be entitled "An Act to permit any insurance company organized and doing business on the mutual plan, under the laws of any State of the United States, insuring against loss or damage resulting from burglary, robbery or any attempt thereat, and also insuring against the loss of money and securities in transportation when shipped by registered mail, to do business in the State of Texas."

On motion of Senator Yantis, the rule requiring bills to be printed and to lie over one day, and the constitutional rule requiring bills to be read on three several days were suspended, and the bill placed upon its second reading by the following vote:

Yeas—24.

Atlee.	Gough.
Burns.	Greer.
Davidson.	Grinnan.
Dibrell.	Hanger.

James.
Lewis.
Linn.
Lloyd.
McGee.
Miller.
Morris.
Neal.

Potter.
Ross.
Sebastian.
Stafford.
Terrell.
Turney.
Wayland.
Yantis.

Absent.

Goss.
Johnson.
Kerr.
Odell.

Patterson.
Stone.
Yett.

The bill was then read a second time, and passed to a third reading.

On motion of Senator Potter the regular order of business was suspended to take up, on second reading,

Senate bill No. 136, A bill to be entitled "An Act to amend Articles 4573 and 4574, of the Revised Civil Statutes of the State of Texas, as revised in 1895, relating to extortion and discrimination by railways, and in addition to the present penalties providing for forfeiture of charter."

The bill was read a second time.

By Senator Potter:

"Amend line 3, page 3, by inserting the word 'railroad' after the word 'any.'"

Pending action,

Senator Linn moved to adjourn until 10 a. m. tomorrow.

Senator Yantis moved to adjourn until 3 p. m. today.

The Senate adjourned until 10 a. m. tomorrow.

FIFTY-SEVENTH DAY.

Senate Chamber,
Austin, Texas, Thursday, March 30, 1899.

Senate met pursuant to adjournment.

President Pro Tem. Stafford in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.
Burns.
Davidson.
Dibrell.
Gough.
Greer.
Grinnan.
Hanger.
James.
Kerr.
Lewis.
Linn.
Lloyd.
McGee.

Miller.
Morris.
Neal.
Odell.
Patterson.
Potter.
Ross.
Sebastian.
Stafford.
Terrell.
Turney.
Wayland.
Yantis.
Yett.

Absent.
Goss. Stone.
Johnson.

Prayer by the Chaplain, Rev. Dr. Den-
son.

Pending the reading of the Journal of
yesterday,

On motion of Senator Ross, the same
was dispensed with.

COMMITTEE REPORTS.

Committee Room,
Austin, Texas, March 29, 1899.
*Hon. R. N. Stafford, President Pro Tem.
of the Senate..*

SIR: Your Judiciary Committee No 2,
to whom was referred

House bill No. 459, being a bill to be
entitled "An Act to amend Articles 308
and 309, Chapter 4, Title V, Code of
Criminal Procedure, Revised Statutes,
1895,"

Have had the same under considera-
tion, and I am instructed to report the
same back to the Senate with the recom-
mendation that it do pass.

Floor report.

YANTIS, Chairman.

Committee Room,
Austin, Texas, March 29, 1899.
*Hon. Jas. N. Browning, President of the
Senate.*

SIR: Your Committee on Engrossed
Bills have carefully examined and com-
pared

Senate bill No. 268, being a bill to be
entitled "An Act to amend the charter
of the city of Houston,"

And find the same correctly engrossed.
JAMES, Chairman.

Committee Room,
Austin, Texas, March 22, 1899.
*Hon. Jas. N. Browning, President of the
Senate.*

SIR: Your Committee on Engrossed
Bills have carefully examined and com-
pared

Senate bill No. 248, being a bill to be
entitled "An Act to reorganize the Forty-
first Judicial District of Texas, to pre-
scribe the time of holding the district
court therein; to make the terms of the
Thirty-fourth Judicial District in El
Paso county to conform thereto; and to
provide for a clerk for the district court
of the Forty-first Judicial District in
said El Paso county, and empowering the
district court of the Thirty-fourth Judi-
cial District to empanel the grand jury
for said county and giving authority to
the judges of either of said two courts

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in said El Paso county, to transfer
causes from their respective courts to the
other of said courts, and to repeal all
laws and parts of laws in conflict here-
with,"

And find the same correctly engrossed.
JAMES, Chairman.

Committee Room,
Austin, Texas, March 29, 1899.
*Hon. Jas. N. Browning, President of the
Senate.*

SIR: Your Committee on Engrossed
Bills have carefully examined and com-
pared

Substitute Senate bill No. 84, being a
bill to be entitled "An Act to amend
Chapter 62, page 65, General Laws of
Texas, adopted at the Regular Session of
the Twenty-fifth Legislature, 1897, de-
fining the offense of burglary,"

And find the same correctly engrossed.
JAMES, Chairman.

Committee Room,
Austin, Texas, March 28, 1899.
*Hon. Jas. N. Browning, President of the
Senate.*

SIR: Your Committee on Engrossed
Bills have carefully examined and com-
pared

Senate bill No. 182, being a bill to be
entitled "An Act to require the city coun-
cils or boards of aldermen in each village,
town or city in this State that may here-
after be granted a special charter, or
amendments to a special charter, by act
of the Legislature, to submit such special
charter, or amendments to a special
charter, to the qualified voters of such
village, town or city for their approval
or rejection at an election to be held for
that purpose, and providing that such
special charter, or amendments to a spe-
cial charter, shall be ratified at such elec-
tion by a majority of the qualified voters
participating or voting at such election
before such charter can go into effect,"

And find the same correctly engrossed.
JAMES, Chairman.

Committee Room,
Austin, Texas, March 27, 1899.
*Hon. Jas. N. Browning, President of the
Senate.*

SIR: Your Committee on Engrossed
Bills have carefully examined and com-
pared

Senate bill No. 260, being a bill to be
entitled "An Act to provide for the estab-
lishment, maintenance and government
of a State normal school, to be located
at San Marcos in Hays county, Texas,

and to be known as the Southwest Texas Normal School,"

And find the same correctly engrossed.
JAMES, Chairman.

Committee Room,
Austin, Texas, March 23, 1899.

To the Hon. Jas. N. Browning, President of the Senate, and Hon. J. S. Sherrill, Speaker of the House of Representatives.

Your Free Conference Committee, to whom was referred the differences of the two houses upon Senate bill No. 20, have had the same under consideration, and after adjusting said differences, report back to the respective houses the following as the action of said committee:

We recommend that the House recede from all its amendments to said Senate bill, and that the following be adopted as a substitute therefor:

"Section 3a. Where any person or persons, not a corporation, have bought lands from the person, firm or corporation, who originally located such land and paid full value therefor, without actual knowledge of any defect in the title to said land, prior to the time of the institution of proceedings on the part of the State to recover such land, and not having been made a party to the suit, such land is now here declared not to be embraced within any of the preceding provisions of this act, that the same shall hereafter be disposed of by the Legislature; said land shall not be subject to location, lease or sale, unless hereafter so provided by the Legislature. Said persons or their assigns, claiming such land shall have ninety days and no more, from and after the taking effect of this act, to file with the Commissioner of the General Land Office proof of such purchase, and payment of full value of said land, and that at the time of such purchase, such purchaser was an innocent purchaser for full value and without notice, and was not a party to such proceeding; provided, that nothing herein contained shall be construed as validating said titles on the lands referred to in this act.

"Sec. 3b. All pre-emption locations on any of the lands mentioned in this act, which were settled upon and surveyed as required by law prior to May 20, 1898, and which have been continuously so occupied as a home, shall not be disposed of under this act, nor shall same be sold or leased by the Commissioner of the General Land Office under any law now in force, but shall remain for future legislative action; provided, that all such claimants shall, within ninety days after

the taking effect of this act, and not thereafter, file their applications and field notes in the General Land Office, together with their proof of continued occupancy; provided, those who have attempted in good faith to acquire any such lands under the homestead donation act, shall have a preference right of six months, regardless of the provisions of this section, to purchase such lands at one dollar per acre.

"Amend by inserting in line 1, on page 2, after the word 'acres,' the word 'more.'

"Amend line 2, Section 3, engrossed bill, by striking out the word 'survey,' and insert in lieu thereof the word 'recovery.'"

Respectfully submitted,

TURNEY, .
POTTER,
DAVIDSON,
SEBASTIAN,
GOSS.

Committee on part of the Senate.

BOLIN,
DECKER,
WRIGHT,
GARNER,
GROGAN.

Committee on part of the House.

On motion of Senator Turney the above report was adopted.

BILLS AND RESOLUTIONS.

By Senator Gough:

Senate bill No. 300, A bill to be entitled "An Act to amend Article 5243j, of the Revised Statutes, relating to notice and forfeiture of charters and permits of domestic and foreign corporations."

Read first time, and referred to Committee on State Affairs.

By Senator Gough:

Senate bill No. 301, A bill to be entitled "An Act to authorize the Secretary of State to exchange some of the volumes of the Texas reports from Dallam to 57th, inclusive, now in his possession, as the Secretary of State, for other volumes, and to purchase other volumes to make continuous sets of the same, and to authorize the sale of same, and make an appropriation therefor."

Read first time, and referred to Committee on State Affairs.

By Senator Potter:

Senate bill No. 302, A bill to be entitled "An Act to carry into effect the amendment to the Constitution of the State of Texas, providing that aid may be granted to disabled and dependent Confederate soldiers, sailors and their widows, under certain conditions, and to make an appropriation therefor."

Read first time, and referred to Committee on Finance.

By Senator Turney:

Senate bill No. 303, A bill to be entitled "An Act to amend Sections 11, 14, 15 and 16, of Chapter 103, of the laws of Texas, passed at the Regular Session of the Legislature, relating to the collection of delinquent taxes."

Read first time, and referred to Committee on State Affairs.

Call concluded.

SPECIAL ORDER.

The Chair laid before the Senate, special order,

House bill No. 124, A bill to be entitled "An Act to amend Chapter 5, Title CII, of the Revised Civil Statutes of Texas of 1895, by adding thereto Articles 5001a and 5001b, providing for elections in a county or subdivision of a county to determine whether hogs, sheep and goats shall be permitted to run at large in such county or subdivision," action being passage to a third reading.

Senator Davidson moved to postpone consideration of the special order, and to take up,

House bill No. 350, A bill to be entitled "An Act to require railway companies to receive and transport all freights coming to them from steamships, steamboats and other water craft and vessels, without discrimination for or against any other steamship line, steamboat line, owner or company, or the owner or owners of any other water craft or vessel."

Lost.

Action then being on House bill No. 124, the following amendments were offered:

By Senator Lewis:

"Amend bill by adding Article 5001c, as follows:

"Whenever there is territory between two subdivisions of a county which have adopted the stock law, or when there is territory adjoining a subdivision which has adopted the stock law, and in such territory there are less than fifty freeholders, an election shall be ordered on the petition of a majority of the freeholders residing in such territory, and the election shall be held as provided by law in other cases relating to the adoption of the stock law; and in cases where there are no freeholders on such intervening or adjoining territory, then, on petition of the owner or owners of the land to the commissioners court, the said commissioners court shall issue an order extending the stock law to said territory, and the same shall be included in the

territory of such adjoining subdivision." Adopted.

By Senator Lewis:

"Amend caption by adding in line 18, after the words and figures, '5001b and 5001c.'"

Adopted.

The bill as amended was passed to a third reading.

On motion of Senator Lewis, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—23.

Atlee.	Morriss.
Burns.	Patterson.
Dibrell.	Potter.
Gough.	Ross.
Greer.	Sebastian.
Hanger.	Stafford.
James.	Terrell.
Kerr.	Turney.
Lewis.	Wayland.
Lloyd.	Yantis.
McGee.	Yett.
Miller.	

Absent.

Davidson.	Linn.
Goss.	Neal.
Grinnan.	Odell.
Johnson.	Stone.

The bill was read a third time, and passed by the following vote:

Yeas—24.

Atlee.	Miller.
Burns.	Morriss.
Davidson.	Neal.
Gough.	Odell.
Greer.	Potter.
Hanger.	Ross.
James.	Sebastian.
Kerr.	Stafford.
Lewis.	Terrell.
Linn.	Wayland.
Lloyd.	Yantis.
McGee.	Yett.

Nays—1.

Patterson.

Absent.

Dibrell.	Johnson.
Goss.	Stone.
Grinnan.	Turney.

Senator Lloyd moved to reconsider the vote by which the bill was passed, and to lay that motion on the table.

Tabled.

The Chair laid before the Senate, on third reading,

House bill No. 204, A bill to be entitled "An Act permitting any insurance company organized and doing business on the

mutual plan, under the laws of any State of the United States, insuring against loss or damage resulting from burglary, robbery, or any attempt thereat, and also insuring against the loss of money and securities in transportation when shipped by registered mail, to do business in the State of Texas."

The bill was read a third time, and passed.

The Chair laid before the Senate, on third reading,

House bill No. 540, A bill to be entitled "An Act to diminish the civil and criminal jurisdiction of the county court of Shelby county; to conform the jurisdiction of the district court thereto, and to repeal all laws in conflict herewith."

The bill was read a third time, and passed by the following vote:

Yeas—24.

Atlee.	Morriss.
Burns.	Neal.
Davidson.	Patterson.
Gough.	Potter.
Greer.	Ross.
Grinnan.	Sebastian.
Hanger.	Stafford.
James.	Terrell.
Linn.	Turney.
Lloyd.	Wayland.
McGee.	Yantis.
Miller.	Yett.

Absent.

Dibrell.	Kerr.
Goss.	Odell.
Johnson.	Stone.

The Chair laid before the Senate, on second reading,

House bill No. 350, A bill to be entitled "An Act to require railway companies to receive and transport all freights coming to them from steamships, steamboats and other water craft and vessels, without discrimination for or against any other steamship line, steamboat line, owner or company, or the owner or owners of any other water craft or vessel."

The bill was read a second time (in full, at request of Senator Turney), and, on motion of Senator Davidson, consideration of same was postponed until 3 p. m. today.

The Chair then laid before the Senate, on second reading,

Senate bill No. 136, A bill to be entitled "An Act to amend Articles 4573 and 4574, of the Revised Civil Statutes of the State of Texas, as revised in 1895, relating to extortion and discrimination by railways, and in addition to the present penalties providing for forfeiture of charter," action being on the following amendment by Senator Potter:

"Amend line 3, page 3, by inserting the word 'railroad' after the word 'any.'"

For the purpose of a *test vote* on the bill, Senator Potter withdrew the amendment.

Senator Burns then offered the following:

"Amend by striking out the enacting clause."

Senator Grinnan moved to postpone further consideration of the bill to Wednesday next.

Lost.

The amendment (Burns') was adopted by the following vote:

Yeas—17.

Atlee.	Morriss.
Burns.	Neal.
Dibrell.	Patterson.
Gough.	Ross.
Greer.	Sebastian.
Hanger.	Stafford.
Kerr.	Turney.
Lewis.	Yett.
Linn.	

Nays—10.

Davidson.	Miller.
Grinnan.	Odell.
James.	Potter.
Lloyd.	Terrell.
McGee.	Yantis.

Absent.

Goss.	Stone.
Johnson.	Wayland.

BILLS SIGNED.

The Chair gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read,

Senate bill No. 130, "An Act to amend Sections 1 and 2, of Chapter 153 of the General Laws of the State of Texas, passed at the Regular Session of the Twenty-fifth Legislature, entitled 'An Act to prohibit the taking of fish from the fresh water lakes and streams of this State, otherwise than by means of the ordinary hook and line and trot line; and to prohibit the sale or shipping of game fish in this State, and to provide penalties for the violation thereof,' and to exempt the counties of Stephens, Eastland and Palo Pinto from the provisions of said chapter."

Senate bill No. 188, "An Act to provide a uniform method of electing school trustees in independent districts, defining the duties of such trustees in reference to the election of superintendents of schools, and the control of schools in such independent districts, and repealing Articles 4008, 4018, 4019, 4020 and 4021, of the Revised Civil Statutes, and all other laws, both general and special, in

conflict with the provisions of this act, and providing an emergency."

Senate bill No. 145, "An Act to provide for the establishment, maintenance and government of a State normal school to be located at Denton, Texas, and to be known as the North Texas Normal School."

HOUSE MESSAGES.

The following messages were received from the House:

Hall of the House of Representatives,
Austin, Texas, March 30, 1899.

Hon. Jas. N. Browning, President of the Senate.

I am directed by the House to inform the Senate of the passage of the following bill:

Senate bill No. 212, A bill to be entitled "An Act to authorize the Houston East & West Texas Railroad Company to lease and operate under lease, the Houston & Shreveport Railroad, extending from the State boundary line, at Logansport, Louisiana, thence through the parishes of De Soto and Caddo, into the city of Shreveport, in said State."

Respectfully,

LEE J. ROUNTREE,

Chief Clerk House of Representatives.

Hall of the House of Representatives,
Austin, Texas, March 30, 1899.

Hon. Jas. N. Browning, President of the Senate.

I am directed by the House to inform the Senate of the passage of the following bill:

Senate bill No. 35, A bill to be entitled "An Act requiring the county commissioners court of any county, or the city council of any incorporated town or city in the State, to submit propositions for the issuance of bonds to a vote of the qualified taxpayers of such county or incorporated city or town, and to repeal the provisions of all city charters in conflict herewith," (with amendment.)

Also House bill No. 618, A bill to be entitled "An Act to define the powers and duties of the courts of civil appeals of the several Supreme Judicial Districts of the State of Texas, where there is, or may be, a conflict of opinion by any of the said courts of civil appeals on a question of law involved in any cause pending before said courts, and prescribing the duties of the Supreme Court of the State of Texas in such cases."

Respectfully,

LEE J. ROUNTREE,

Chief Clerk House of Representatives.

IN SENATE.

The above reported House bill No. 618, was read first time, and referred to Judiciary Committee No. 1.

On motion of Senator Yantis, the regular order of business was suspended to take up, on second reading

Senate bill No. 293, A bill to be entitled "An Act to define and punish unjust discrimination by officers, agents, servants and employes, and receivers, their officers, servants, agents and employes of railroad companies in this State."

The bill was read a second time, and ordered engrossed by the following vote:

Yeas—20.

Davidson.	Miller.
Gough.	Morriss.
Greer.	Neal.
Grinnan.	Odell.
James.	Potter.
Kerr.	Stafford.
Lewis.	Terrell.
Linn.	Turney.
Lloyd.	Yantis.
McGee.	Yett.

Nays—6.

Atlee.	Hanger.
Burns.	Johnson.
Dibrell.	Ross.

Present—Not voting.

Patterson.

Absent.

Goss.	Stone.
Sebastian.	Wayland.

On motion of Senator Yantis, the constitutional rule requiring bills to be read on three several days was suspended, and the bill placed upon its third reading and final passage by the following vote:

Yeas—21.

Atlee.	McGee.
Davidson.	Miller.
Dibrell.	Morriss.
Gough.	Odell.
Greer.	Potter.
Grinnan.	Sebastian.
James.	Terrell.
Kerr.	Turney.
Lewis.	Yantis.
Linn.	Yett.
Lloyd.	

Nays—5.

Burns.	Ross.
Hanger.	Stafford.
Patterson.	

Absent.

Goss.	Stone.
Johnson.	Wayland.

The bill was read a third time, and passed.

Senator Yantis moved to reconsider the vote by which the bill was passed, and to lay that motion on the table.

Tabled.

On motion of Senator Davidson, the regular order of business was suspended to take up, on third reading,

Senate bill No. 243, A bill to be entitled "An Act validating the incorporation, for school purposes only, of Victoria independent school district, an independent incorporated public school district heretofore incorporated in Victoria county, including within its limits the municipal corporation of the town or city of Victoria; adding to the same certain territory, so as to make the same hereafter co-extensive with the ancient and original town tract of Victoria; validating the acts of the board of trustees thereof; authorizing the board of trustees to levy, assess and collect special taxes; conferring upon the board of trustees plenary powers and authority to issue bonds for the purpose of purchasing school sites and erecting, furnishing and equipping school buildings within the same; and further prescribing the duties and authority of said board."

The bill was read a third time, and passed by the following vote:

Yeas—22.

Atlee.	Linn.
Burns.	Lloyd.
Davidson.	McGee.
Dibrell.	Miller.
Gough.	Morriss.
Greer.	Odell.
Grinnan.	Ross.
Hanger.	Sebastian.
James.	Stafford.
Kerr.	Turney.
Lewis.	Yett.

Absent.

Goss.	Stone.
Johnson.	Terrell.
Neal.	Wayland.
Patterson.	Yantis.
Potter.	

Senator Sebastian called up his motion to reconsider the vote by which

Senate bill No. 294, A bill to be entitled "An Act to reorganize the Thirty-fourth Judicial District of Texas, to prescribe the time of holding the terms of the district court therein, and to repeal all laws in conflict with this act" was passed (see Journal March 28th).

Senator Lewis moved to table the motion to reconsider.

Tabled.

(The motion to reconsider was made in order to perfect the bill by amendment, which was found unnecessary.)

On motion of Senator Lewis the regular order of business was suspended to take up, on second reading,

Senate bill No. 283, A bill to be entitled "An Act to amend Section 37, of Article 22, Title IV, Revised Civil Statutes of Texas, adopted at the Regular Session of the Twenty-fourth Legislature, relating to the Thirty-seventh Judicial District Court and the Forty-fifth Judicial District Court of Texas, in Bexar county, prescribing the jurisdiction thereof, fixing the time of holding said courts, providing for the election of the judges thereof and of the district attorney of the Thirty-seventh Judicial District; and to create the Fifty-seventh Judicial District of the State of Texas, to fix the time of holding court therein, and to prescribe the jurisdiction thereof, and to provide for the appointment of a district judge of said Fifty-seventh Judicial District; and to prescribe the time for holding the district courts of Bexar county of the Thirty-seventh Judicial District and the Forty-fifth Judicial District, and to define the jurisdiction thereof, and to repeal all laws and parts of laws in conflict therewith."

The bill was read a second time, and ordered engrossed.

On motion of Senator Lewis, the constitutional rule requiring bills to be read on three several days was suspended, and the bill placed upon its third reading and final passage by the following vote:

Yeas—23.

Atlee.	McGee.
Burns.	Miller.
Davidson.	Morriss.
Dibrell.	Neal.
Gough.	Patterson.
Greer.	Potter.
Hanger.	Ross.
James.	Sebastian.
Kerr.	Stafford.
Lewis.	Turney.
Linn.	Yantis.
Lloyd.	

Nays—1.

Yett.

Absent.

Goss.	Stone.
Grinnan.	Terrell.
Johnson.	Wayland.
Odell.	

The bill was read a third time, and passed by the following vote:

Yeas—19.

Atlee.	Davidson.
Burns.	Dibrell.

Gough.	Morriss.
Greer.	Neal.
Hanger.	Odell.
Kerr.	Patterson.
Lewis.	Ross.
Linn.	Stafford.
Lloyd.	Turney.
Miller.	

Nays—5.

James.	Yantis.
McGee.	Yett.
Potter.	

Absent.

Goss.	Stone.
Grinnan.	Terrell.
Johnson.	Wayland.
Sebastian.	

On motion of Senator Dibrell the regular order of business was suspended to take up, on third reading,

Senate bill No. 260, A bill to be entitled "An Act to provide for the establishment, maintenance and government of a State normal school to be located at San Marcos, in Hays county, Texas, and to be known as the Southwest Texas Normal School."

The bill was read a third time, and passed by the following vote:

Yeas—15.

Atlee.	Miller.
Burns.	Patterson.
Dibrell.	Potter.
Gough.	Ross.
Hanger.	Sebastian.
Kerr.	Stafford.
Lewis.	Terrell.
Linn.	

Nays—11.

Davidson.	Neal.
Greer.	Odell.
James.	Turney.
Lloyd.	Yantis.
McGee.	Yett.
Morriss.	

Absent.

Goss.	Stone.
Grinnan.	Wayland.
Johnson.	

Senator Dibrell moved to reconsider the vote by which the bill was passed, and to lay that motion on the table.

Tabled.

On motion of Senator Miller the regular order of business was suspended, to take up, on second reading,

Senate bill No. 272, A bill to be entitled "An Act to regulate the purchase, sale and transfer of stocks of goods, wares and merchandise in bulk; and providing for the making of a written statement under oath of the vendor of any stock of

goods, wares or merchandise in bulk; said statement under oath to contain the name and address of all of the creditors of said vendor, together with the amount of such indebtedness."

The bill was read a second time (in full at request of Senator Linn), with committee amendment, to wit:

"Amend Section 3, line 2, of said section, by adding after the word 'merchandise' the following, 'out of the usual course of trade.'"

The committee amendment was adopted.

The bill as amended was ordered engrossed by the following vote:

Yeas—13.

Burns.	Lloyd.
Dibrell.	McGee.
Gough.	Miller.
Greer.	Morriss.
Hanger.	Neal.
James.	Odell.
Lewis.	

Nays—11.

Atlee.	Stafford.
Davidson.	Terrell.
Kerr.	Turney.
Linn.	Yantis.
Potter.	Yett.
Ross.	

Absent.

Goss.	Sebastian.
Grinnan.	Stone.
Johnson.	Wayland.
Patterson.	

(Senator Sebastian in the chair.)

On motion of Senator McGee the regular order of business was suspended to take up, on second reading,

Senate bill No. 171, A bill to be entitled "An Act to amend Articles 3094 and 3095, Chapter 3, of Title LVIII, of the Revised Statutes of the State of Texas, making any person or persons, company, co-partnership or corporation, who shall make, or cause to be made, write, or cause to be written, either for himself or for another, any contract or policy of insurance in any insurance company not authorized to do business in this State, liable to the State for the same taxes and penalties, general and special, State, county and municipal, as insurance companies that have been legally qualified and admitted to do business in this State by agents or otherwise, and prescribing method of collecting such tax, and fixing penalty for non-compliance with terms and conditions of this act."

The bill was read a second time, and pending action on engrossment,

On motion of Senator Potter the Senate adjourned until 3 p. m. today.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

President Pro Tem Stafford in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Miller.
Burns.	Morriss.
Davidson.	Neal.
Dibrell.	Patterson.
Gough.	Potter.
Greer.	Ross.
Grinnan.	Sebastian.
Hanger.	Stafford.
James.	Terrell.
Kerr.	Turney.
Lewis.	Wayland.
Linn.	Yantis.
Lloyd.	Yett.
McGee.	

Absent.

Goss.	Odell.
Johnson.	Stone.

Senator Davidson moved to suspend pending business (Senate bill No. 171—see caption above) to take up, on second reading,

Senate Joint Resolution No. 5, amending Article 6, Section 2, of the Constitution of the State of Texas, requiring all persons subject to a poll tax to produce their poll tax receipts at any election at which they offer to vote, and fixing the time of payment of said tax.

Carried by the following vote:

Yeas—25.

Atlee.	Miller.
Burns.	Morriss.
Davidson.	Neal.
Dibrell.	Patterson.
Gough.	Potter.
Greer.	Ross.
Grinnan.	Sebastian.
Hanger.	Stafford.
James.	Terrell.
Kerr.	Turney.
Lewis.	Wayland.
Lloyd.	Yett.
McGee.	

Nays—2.

Linn.	Yantis.
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Absent.

Goss.	Odell.
Johnson.	Stone.

The resolution was read a second time, with favorable majority and adverse minority committee reports.

Senator Linn moved to substitute the

adverse minority for the favorable majority committee report.

Pending action,

Senator Gough called up

Senate bill No. 154, "An Act to authorize the Missouri, Kansas & Texas Railway Company of Texas to acquire by purchase or lease the railroad of the Sherman, Shreveport & Southern Railway Company, extending from the city of McKinney, in Collin county, to the city of Jefferson, in Marion county, and any extension thereof from said city of Jefferson to the eastern line of Texas, in the direction of Shreveport, Louisiana, together with the property and franchises pertaining thereto, and to own, operate and maintain the same as part of its line, with the right to extend the same and to construct branches therefrom by amendment of its charter under the general laws of the State of Texas, and investing said companies and each of them with the power to make and execute all necessary contracts, agreements and conveyances to effect such sale or lease; also to authorize the said The Sherman, Shreveport & Southern Railway Company before such sale or lease, or the said The Missouri, Kansas & Texas Railway Company of Texas, after such sale or lease, when the said railway so to be purchased or leased, has been extended from the city of Jefferson to the eastern line of the State of Texas, in the direction of Shreveport, Louisiana, to connect with any railway extending to said city of Shreveport, and to acquire from the owner or owners of such line of railway in the State of Louisiana, by lease, trackage or running rights agreement, the use of such line to the said city of Shreveport; and further, to authorize the said The Sherman, Shreveport & Southern Railway Company, before such sale or lease, or the said The Missouri, Kansas & Texas Railway Company of Texas after such sale or lease, to acquire necessary terminal facilities in the said city of Shreveport," *which had passed both houses, and been vetoed by the Governor, and moved its passage over the Governor's veto, and submitted the following letter as his remarks in favor of its passage:*

Hotel Eastman,
Hot Springs, Ark.,
March 23, 1899.

Senator J. R. Gough, Austin, Texas.

DEAR SENATOR: The Constitution of the State forbids the consolidation of parallel and competing lines of railway under the same ownership, management or control.

In the case of the State against the Red River & East Line Railway, the Supreme Court held that the Missouri, Kansas & Texas Railway and the Red River & East Line Railway were competing railroads, and this opinion was followed by Governor Sayers in vetoing the bill, authorizing the Missouri, Kansas & Texas Railway to purchase the Sherman, Shreveport & Southern Railway; and in vetoing the bill authorizing the St. Louis & Southern Railway to purchase the Tyler Southeastern Railway. This was the only question considered by the Governor in each case, and in what I shall say I shall have reference to this question alone, expressing no opinion on any other feature of these bills.

What are parallel and competing lines of railway in the meaning of the Constitution and laws of Texas? Plain common sense would say it would be two railways beginning at a place near each other and ending at another place near each other, running substantially parallel with each other, and under the same ownership, management and control, by which they would be enabled to prevent competition between the two roads, in disregard of the rights of the public. The purpose of the Constitution and law in this respect was to secure to the public the benefits of competition, by prohibiting the consolidation of two or more competing roads under the same management and control.

In view of these facts, let us see whether the Missouri, Kansas & Texas road and the Sherman, Shreveport & Southern road are competing lines.

The Missouri, Kansas & Texas road begins at Denison, on the northern boundary of the State, and runs to Houston, in the southern part of the State. The Sherman, Shreveport & Southern road begins at Jefferson, near the eastern boundary of the State, and runs west to McKinney, being at right angles with the main line of the Missouri, Kansas & Texas Railway, and lacking over thirty miles of reaching the Missouri, Kansas & Texas Railway at Denton, Texas. No imagination could be so extravagant as to assume that these were competing lines of railway.

A branch of the Missouri, Kansas & Texas Railway begins at Sherman, near the northern boundary of the State, and runs in a southeast direction through Greenville to Mineola, crossing the Sherman, Shreveport & Southern at Greenville. These two roads do not begin in the same part of the State or end in the same part of the State. They are not parallel roads, and they do not fur-

nish transportation facilities to the same people, and it cannot in reason or justice be said that they are either parallel or competing roads. This is substantially admitted in the veto message of the Governor, who, to sustain the position, assumes that by their connection with other railroads, under entirely different ownership, management and control, they become competing railways. And in this he followed the opinion of the Supreme Court in the East Line & Red River case. If these other roads, so referred to, were under the same ownership, management and control as the Missouri, Kansas & Texas and the Sherman, Shreveport & Southern, there might be more plausibility in this remarkable assumption. I can not suppose that they took into consideration the necessary effect of such a ruling upon the other railroads of Texas.

If the principle shall be established and adhered to that railways not under the same ownership, management or control can be coupled together, or with other railways, in order to make out a case of parallel and competing railways, then the Houston & Texas Central, the Missouri, Kansas & Texas and the Gulf, Colorado & Santa Fe railways, upon the same principle, may be held to be parallel and competing railways, and their charters may be forfeited. They are in fact parallel railways, and competing railways, but their competition being under the management of different corporations, benefits the public, while if they were all under the same ownership, management and control it would be monopolistic and injurious to the public. My statement illustrates the vice of the decision and messages above referred to.

As to the case of the St. Louis Southwestern Railway, it enters Texas at the northeastern part of the State, passes through the city of Tyler, and runs off west beyond the Brazos river. The Tyler Southeastern road runs from Tyler south to Lufkin, nearly at right angles with the St. Louis & Southwestern, and there can be no pretense that these two roads are either parallel or competing. At Lufkin the Tyler Southeastern connects with the Houston East & West Texas Railway, which extends thence to Houston. But it is alleged, to meet this difficulty, that these two roads, the Tyler Southeastern and the International & Great Northern Railways, are all parts of the Gould system, that the International & Great Northern extends from Tyler to Houston, will become a parallel and competing line with the Tyler Southeastern, but as shown above, the Tyler Southeastern ends at Lufkin, does not

reach Houston; so here again to make out the case of parallel and competing roads, the Houston East & West Texas, which is under an entirely different ownership, management and control, is enlisted into service to make out the case of parallel and competing roads.

If this is to be the established law of Texas, not only the Houston & Texas Central, the Missouri, Kansas & Texas, the Gulf, Colorado & Santa Fe, the Galveston, Harrisburg & San Antonio, and the San Antonio & Aransas Pass, but with them every railway of importance in Texas will be liable to have their charters forfeited for being parallel and competing railways. The sword of Democles will thus be suspended over them.

I cannot suppose that the Supreme Court or the Governor had in view such consequences. Surely our great and growing State, which is substantially without navigable rivers, and is dependent on railroads for the modern means of transportation and travel, is not going deliberately to enter on such a course of vandalism against the railways, and against the best interests of the people of Texas.

Notwithstanding this difference of opinion, no one has a higher respect for the court which delivered the opinion referred to, or for the present Supreme Court, or for Governor Sayers, than I have. I do not question the patriotism and intended fidelity to the Constitution and public interests of either. But, I believe they have made a mistake, which if adhered to will be most hurtful to the honor and interests of our beloved State.

It will be impossible even for great names, exalted positions and the highest characters to sanctify such a violation of principles, and such a wrong to the best interests of Texas. The profoundness of my conviction of this truth impels me now to come forward with this expression of my views, with a full consciousness of the criticism it will expose me to, but I do not abandon the thought that "truth is mighty and will prevail."

Very respectfully,

JOHN H. REAGAN.

The question was put: "*Shall the bill pass notwithstanding the Governor's objections?*"

The bill passed over the Governor's objections by the following vote:

Yeas—20.

Atlee.	Greer.
Burns.	Hanger.
Davidson.	James.
Dibrell.	Kerr.
Goss.	Lewis.
Gough.	Linn.

Miller.
Morris.
Neal.
Odell.

Patterson.
Ross.
Stafford.
Turney.

Nays—7.

Grinnan.
McGee.
Potter.
Sebastian.

Terrell.
Wayland.
Yett.

Absent.

Johnson.

PAIRED.

Senator Yantis, present, who would vote *nay*, with Senator Stone, absent, who would vote *yea*.

Senator Hanger called up

Senate bill No. 193, "An Act to authorize the St. Louis Southwestern Railway Company of Texas to purchase, own and operate a railway extending from a point in or near the town of Tyler, in Smith county, to a point in or near the town of Lufkin, in Angelina county, with its franchises and appurtenances, known as the Tyler Southeastern Railway; and to authorize the Tyler Southeastern Railway Company, and the owners thereof to sell the same; and to authorize a corresponding increase in the authorized aggregate of the bonds and stock of the St. Louis Southwestern Railway Company of Texas, and to regulate reports of such properties, and the operations thereof," which had passed both houses, and been vetoed by the Governor, and moved its passage over the Governor's veto.

The question was put: "*shall the bill pass notwithstanding the Governor's objections?*"

The bill passed over the Governor's veto by the following vote:

Yeas—19.

Atlee.
Burns.
Dibrell.
Goss.
Gough.
Greer.
Hanger.
James.
Kerr.
Lewis.

Linn.
Lloyd.
Miller.
Morris.
Neal.
Odell.
Potter.
Ross.
Turney.

Nays—8.

Grinnan.
McGee.
Sebastian.
Stafford.

Terrell.
Wayland.
Yantis.
Yett.

Present—Not voting.

Davidson.

Absent.

Johnson.

Patterson.

"I vote 'no' upon this bill, not because I think it unconstitutional, nor because I think it detrimental to the best interest of the State, but because I believe a majority of my constituency, who are locally interested, so desire me to vote.

"I am here to reflect their wishes, and take pleasure in doing so when I can without doing violence to a sense of public duty.

"STAFFORD."

Senator Lewis called up

Senate bill No. 35, A bill to be entitled "An Act requiring the county commissioners court of any county in the State to submit propositions for the issuance of bonds to a vote of the qualified taxpayers of such county," which had passed the House with an amendment, and moved that the Senate concur in said amendment.

Concurred.

(Senator Burns in the chair.)

Action recurring to Senate Joint Resolution No. 5 (see above), the motion of Senator Linn to substitute the adverse minority for the favorable majority report was lost by the following vote:

Yeas—10.

Dibrell.	McGee.
Goss.	Morriss.
Grinnan.	Odell.
Hanger.	Ross.
Linn.	Yantis.

Nays—18.

Atlee.	Miller.
Burns.	Patterson.
Davidson.	Potter.
Gough.	Sebastian.
Greer.	Stafford.
James.	Terrell.
Kerr.	Turney.
Lewis.	Wayland.
Lloyd.	Yett.

Absent.

Johnson.	Stone.
Neal.	

The resolution was ordered engrossed by the following vote:

Yeas—18.

Atlee.	Neal.
Davidson.	Patterson.
Gough.	Potter.
Greer.	Sebastian.
James.	Stafford.
Kerr.	Terrell.
Lewis.	Turney.
Lloyd.	Wayland.
Miller.	Yett.

Nays—11.

Burns.	Goss.
Dibrell.	Grinnan.

Hanger.	Odell.
Linn.	Ross.
McGee.	Yantis.
Morriss.	

Absent.

Johnson.	Stone.
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BILL NO. 304.

By unanimous consent, the following bill was introduced:

By Senator Gough:

Senate bill No. 304, A bill to be entitled "An Act to make it penal for any railroad company, or any transportation company, or any kind of common carrier, or any telegraph company, or any telephone company, or any receiver of any one of said companies or common carriers, or any officer, agent or employe of same to grant, issue or deliver any free pass, or free ticket, or frank, or any pass or ticket at a discount other than as sold to the public generally, to any person whatsoever not in the employ of the company, common carrier or receiver, in whose name, or by whose authority or permission, said ticket, pass or frank is issued; and to prescribe a punishment therefor."

Read first time, and referred to Committee on State Affairs.

RESOLUTION.

By Senator Miller:

Senate Concurrent Resolution No. 17, Whereas, The greatest American exponent of industrial education, Dr. C. M. Woodward of Washington University, is now in Texas lecturing upon the subject of Industrial Education; and

Whereas, This is a live subject attracting attention of the friends of education all over the land, and upon which bills are now pending before both houses of the Texas Legislature; therefore be it

Resolved by the Senate of the State of Texas, the House concurring, that as the distinguished gentleman will be in Austin April 5, 1899, that he be invited to deliver a lecture upon the subject of Industrial Education in the Hall of the House of Representatives, at 8 p. m., April 5th or 6th, 1899.

MILLER.

HANGER.

The resolution was read, and adopted.

Senator Greer called up from the table, on second reading,

House bill No. 621, A bill to be entitled "An Act to create a more efficient road system for Nacogdoches county, Texas, and making the county commissioners of said county ex-officio road commissioners, and prescribing their duties as such, and

providing for their compensation as road commissioners, and providing for the appointment of road overseers and defining their duties, and for the working of county convicts upon the roads of said county, and providing for officers' fees and rewards for the capture of escaped convicts, and authorizing the working of county convicts partly upon the county convict farm as well as upon the public roads, or partly upon both, in the discretion of the commissioners court, and making provision of act applicable, as far as practicable, to convicts when worked on county farms, and to provide for the summoning of teams for road work, and for an allowance of time for the service of same, and fixing a penalty for a violation of this act, and repeal all laws in conflict with this act as to Nacogdoches county, and to authorize the commissioners court of Nacogdoches county to create the office of superintendent of public roads and bridges for Nacogdoches county, and defining his duties, and providing for compensation of said superintendent, and prescribing bond to be given by said officer; providing that delinquent poll tax-payers shall be subject to three days road duty; providing for the condemnation of any land needed for the widening, straightening, changing or draining of roads; providing for the taking of timber, gravel, earth, stone or other necessary material for the improvement of roads, and giving persons summoned to work on roads the right to be relieved from the discharge of such duty on the payment of specific sums of money herein stipulated," action being on passage to a third reading.

By Senator Greer:

"Amend Section 17 by striking out all after the word 'paying,' line 32, page 10, and insert in lieu thereof the following: 'The amount of poll tax required by law, to be apportioned as the law directs.'"

Adopted.

The bill as amended was passed to a third reading.

On motion of Senator Greer, the constitutional rule requiring bills to be read on three several days was suspended, and the bill placed upon its third reading and final passage by the following vote:

Yeas—26.

Atlee.	Kerr.
Burns.	Lewis.
Davidson.	Linn.
Goss.	Lloyd.
Gough.	Miller.
Greer.	Morriss.
Grinnan.	Neal.
Hanger.	Odell.
James.	Patterson.

Potter.
Ross.
Sebastian.
Terrell.

Turney.
Wayland.
Yantis.
Yett.

Absent.

Dibrell.
Johnson.
McGee.

Stafford.
Stone.

The bill was read a third time, and passed by the following vote:

Yeas—27.

Atlee.
Burns.
Davidson.
Dibrell.
Goss.
Gough.
Greer.
Grinnan.
Hanger.
James.
Kerr.
Lewis.
Lloyd.
McGee.

Miller.
Morriss.
Neal.
Patterson.
Potter.
Ross.
Sebastian.
Stafford.
Terrell.
Turney.
Wayland.
Yantis.
Yett.

Absent.

Johnson.
Linn.

Odell.
Stone.

COMMITTEE REPORTS.

The following committee reports were made:

MAJORITY REPORT.

Committee Room,
Austin, Texas, March 30, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Finance, to whom was referred

Senate bill No. 275, being a bill to be entitled "An Act to make an appropriation to be used by the Governor of the State of Texas in paying for services heretofore rendered at the instance of the Governor under employment which may have been authorized by the Constitution or laws of the State,"

Have had the same under consideration, and I am instructed by a majority of the committee to report the same back to the Senate with the recommendation that it *do not* pass.

DIBRELL, Chairman.

MINORITY REPORT.

Committee Room,
Austin, Texas, March 21, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: The undersigned, a minority of

the Finance Committee, to whom was referred

Senate bill No. 275, being a bill to be entitled "An Act to make an appropriation to be used by the Governor of the State of Texas in paying for services heretofore rendered at the instance of the Governor under employment which may have been authorized by the Constitution or laws of the State,"

Are unable to agree with the majority of said committee in reporting said bill unfavorably to the Senate, and beg leave to present this minority report and recommend that said bill *do* pass.

We believe that governments, like individuals, should keep good faith with those with whom contracts are made, and carry out in letter and spirit their several provisions. Contracts may be, for just and legal causes, repudiated before their performance, but after their performance by either party, and after benefits have been derived from them, it is unconscionable to repudiate such agreements and attempt to hide behind legal technicalities and forced constructions of constitutional limitations. The object of this bill is to empower the Governor, if in his judgment Governor Culberson, while acting as the chief magistrate of Texas, had authority under the Constitution and laws of this State to employ the firm of Hogg & Robertson to collect certain money thought to be due the State of Texas by the Federal government, and that said firm in pursuance of said contract performed the services therein stipulated, to pay the fee due under and by the terms of said employment. This we conceive to be the bounden duty of the Legislature, in response to every principle of right, justice, law, equity, constitutional behest and high moral impulse. It is not in any sense a claim against the State, but an honest debt due by the State to this firm, resulting from the performance in good faith of the provisions of a solemn contract authorized by the Constitution and laws of Texas, and under which the State has received material benefit. The money due this firm is not a subject of grant, but of payment. The consideration of the personel of the contracting parties is not in issue, and is wholly immaterial to a just determination of the question involved. The question must be considered dispassionately and without vituperation and arraignment, as it is not tainted with fraud or the semblance of wrong, but rather bears evidence of having been inspired by genuine patriotism and conducted upon the laudible principle that the "servant is worthy of his hire."

Apparently but one question is presented, and that is of a legal tenor. Was the contract authorized by law, and has the Legislature authority to make an appropriation for its payment? Section 10, of Article 4, of the Constitution, confers upon the Governor the general power and duty of having faithfully executed the laws of this State. He may do this in person, by agent or through such public officials as may be charged with such duties. In addition to the general power conferred upon the Governor by the Constitution, Article 2907, of the Revised Civil Statutes, confers specific authority upon this functionary of government, in his discretion to furnish assistance to the proper officials in the assertion or defense of any right of the State. The power here conferred applies to all actions or suits, which may be had in courts of law or equity, or before any legislative assembly or court of claims. The legal significance of the word suit in its broadest sense applies to the prosecution of claims before legislative assemblies as well as before courts.

The contention that the contract of employment by Governor Culberson of the firm of Hogg & Robertson for the collection of the claim due the State was for lobbying purposes, and therefore void, cannot be sustained by the judicial utterances of any court in this country, viewed in the light of the facts in this particular case. We go further than this, and in the light of the facts of this case, challenge the production of a single instance in legal history where any fee was denied by any court upon the grounds that the contract was void as against public policy. A large number of cases have been decided by our Federal Supreme Court and by the courts of last resort of many States in the Union holding similar contracts void as against public policy, but in each case without any exception in the light of facts altogether dissimilar from the facts in this case. All the courts, both State and Federal, have approved the much quoted rule laid down by the Supreme Court of the United States as follows: "We entertain no doubt that in such cases, or under all other circumstances, an agreement, express or implied, for purely professional services is valid. Within this category are included drafting the petition to set forth the claim, attending to the taking of testimony, collecting facts, preparing arguments, and submitting them orally or in writing to a committee or other proper authorities and other services of like character. All those things are in-

tended to reach only the reason of those sought to be influenced. They rest on the same principle of ethics as professional services rendered in a court of justice, and are no more exceptionable."

An inspection of the facts relative to the action of Governor Hogg in the presentation of Texas' claim against the United States will show a scrupulous observance of the rule so clearly laid down by the highest court in our country, prescribing the legal ethics of the presentation of claims before legislative bodies, the contention that the contract in this case, either by direct or indirect implication, or by intendment or contemplation, and the manner of its execution, should not be dignified with the recognition of a just and real contention, but a mere pretense.

The other objection urged against the payment of this fee is that the Legislature is prohibited from making the appropriation by Section 44, Article 3, of the Constitution. This section of the Constitution thought to prohibit the payment of the fee due the firm of Hogg & Robertson relates solely to the legislative department of government, and is a limitation upon the authority of the Legislature. When analyzed, its obvious meaning is as follows:

1. "The Legislature shall provide by law for the compensation of all officers, servants, agents and public contractors not provided for in this Constitution. * * *"

2. The Legislature "shall not grant extra compensation to any officer, agent, servant or public contractors after such service shall have been performed or contract entered into for the performance of the same."

3. The Legislature shall not "grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual on a claim, real or pretended, when the same shall not have been provided for by pre-existing law. * * *"

4. The Legislature shall not "employ any one in the name of the State unless authorized by pre-existing law."

It is obvious from the foregoing analysis of Section 44, of the Constitution, that the only portion of such constitutional limitation that could under any possible construction have reference to the question under consideration is that embraced in subdivision 3, above set out. In our judgment this part of Section 44, which is relied upon by those who oppose this bill, has not and was never intended to have reference to any indebtedness due by the State resulting *ex contractu*, or for services performed upon

the employment of one authorized to pledge the State's credit. It is peculiarly and guardedly worded. The language is, the Legislature shall not grant by appropriation or otherwise. The entire construction of this clause of the Constitution depends upon the meaning of the word "grant." This word neither in its legal sense nor in its common acceptance means payment. It is not synonymous with payment. When a claim or debt is due for services performed, or as the result of the performance of an agreement, it is not in any sense proper to say grant the sum, but to say, pay the sum. Mr. Webster defines the word grant to mean: "To give over; to make conveyance of; to give the possession or title of; to bestow or confer, with or without compensation, particularly in answer to prayer or request." As synonyms he gives the following: "Give, confer, bestow, convey, transfer, admit, allow, concede." Anderson's Dictionary of Law defines the word "pay" as follows: "To discharge an obligation by a performance according to its terms or requirements whether the obligation be for money, merchandise or services." The framers of the Constitution have recognized the difference between the words grant and pay. In Section 48, of Article 3, in placing the limitation upon the Legislature in levying taxes, it is provided that such authority may be exercised for the payment of all interest due upon the bonded debt of the State. In the same section the service of those who are charged with collecting the revenues due the State is recognized as a debt, and the word payment is used, not grant; and also when speaking of the salary of all officers, agents and employes the word payment is used. But as in Section 44, when extra compensation is spoken of or the satisfaction of a claim, which is asked for by prayer or petition, the word grant is used. It is evident and hardly susceptible of dispute that the framers of the Constitution never had in contemplation the payment of any claim resulting from a contract with the State and due for services performed, when they used the word grant, in Section 44, but on the contrary, had in contemplation such claims only as are granted upon the petition of claimants or at the earnest prayer of those who have performed gratuitous service to the State upon the pretense of patriotism, or who have suffered some loss for the public good, and claims of like character. This idea is further demonstrated by like language in Sections 51 and 52, of Article 3.

In addition to the manifest intent and

purpose of the Constitution, both as relates to the authority of the chief executive in having executed all the laws of the State and in defending its rights and demanding its dues, and in prescribing limitations beyond which the Legislature does not venture, it must certainly strongly appeal to the sound discretion of each and every member of this Legislature that a man so discreet in his actions, so honest in all his purposes, so patriotic in his impulses and expressions, so scrupulous and exact in his observance and construction of the Constitution and laws of this State under all circumstances, so supreme and statesmanlike in all his judgments affecting the interest of his beloved State, so laudibly ambitious in his aspirations for political ascension as was Governor Culbertson, should have made the agreement upon which this claim is based, accepted its benefits and recommended the payment of the sum due. If in reality it is thought the Constitution stands as an inhibition against the payment of this just debt, is this not a case so environed and circumstanced that the Legislature may not justly say to itself, as did Bassonio to Portia, "I beseech you, Wrest once the law to your authority. To do a great right, to do a little wrong."

In making this plea the question is not begged. Not as beggars do we protest, but impelled by a sense of duty as we view it in the light of Constitutional law, we urge in the name of the people that Texas be not stained with the charge of repudiation. Not in defense of Governor Hogg do we protest. He needs no defense. In the days gone by, many is the lance that has been hurled at and shattered upon his character, many a bright stiletto has been thrust in his back, but the gallant knight unharmed has always sallied forth the victor. The people of Texas will continue to hold him in their estimation as honest and true, uncompromising in his war against those principles which he believes to be adverse to the best interests of the masses, and intelligent enough to successfully combat all of his enemies.

We move the minority be substituted for the majority report.

DIBRELL,
MORRISS.

I concur in the views expressed in the above, so far as Hogg & Robertson should receive compensation for their services to the State, not to exceed ten per cent. on the net amount realized by the State of Texas.

In regard to the constitutionality of the question, my opinion is that all such

questions should be left to the higher courts for their final determination.

WAYLAND.

Committee Room,
Austin, Texas, March 30, 1899.

Hon. Jas. N. Browning, President of the Senate.

SIR: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 283, being a bill to be entitled "An Act to amend Section 37. of Article 22, Title IV, Revised Civil Statutes of Texas, adopted at the Regular Session of the Twenty-fourth Legislature, relating to the Thirty-seventh Judicial District Court and the Forty-fifth Judicial District Court of Texas, in Bexar county, prescribing the jurisdiction thereof, fixing the time of holding said courts, providing for the election of the judges thereof and of the district attorney of the Thirty-seventh Judicial District; and to create the Fifty-seventh Judicial District of the State of Texas, to fix the time of holding court therein, and to prescribe the jurisdiction thereof, and to provide for the appointment of a district judge of said Fifty-seventh Judicial District; and to prescribe the time for holding the district courts of Bexar county of the Thirty-seventh Judicial District and the Forty-fifth Judicial District, and to define the jurisdiction thereof; and to repeal all laws and parts of laws in conflict therewith."

And find the same correctly engrossed.
JAMES, Chairman.

Action recurred to pending business. Senate bill No. 171 (see caption above), and

On motion of Senator Potter, the Senate adjourned until 10 a. m. tomorrow.

FIFTY-EIGHTH DAY.

Senate Chamber,
Austin, Texas, Friday, March 31, 1899.

Senate met pursuant to adjournment. President Pro Tem. Stafford in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Hanger.
Burns.	James.
Davidson.	Kerr.
Dibrell.	Linn.
Goss.	Lloyd.
Gough.	McGee.
Greer.	Miller.
Grinnan.	Morriess.